

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated December 31, 2003. A Petition for Extension of Time (two months) and the fee therefor are enclosed.

The Applicant has addressed the objection to claim 1 in a manner which is believed to avoid the same. Reconsideration and withdrawal of the rejection of claim 1 is therefore earnestly solicited.

Claims 1-22 stand rejected on grounds of anticipation by Frison (6,049,789). Reconsideration is requested in view of the amendments to claim 1 herein and the following remarks.

As described in the introductory pages of the specification (pp. 1-6), the prior art is familiar with license managers, on the one hand, and JACS (Job Accounting and Chargeback Systems) on the other hand. In the prior art, these systems operate independently of one another.

License managers are software controlling tools, the use of which is mandated by software vendors. A license manager monitors requests to use and the actual utilization of software at local and remote computer sites to develop control information which determines whether a particular request for utilization of a software product will or will not be granted. License managers further develop charge related information utilized by the licensors or owners of the software products on the basis of which is developed license billing information, reflecting amounts payable to the software vendors or licensors.

JACS, on the other hand, are of no interest to "licensors" of software products. JACS are of interest to management personnel who are concerned with inter-company apportionment of the cost of utilizing software products among their many different departments, divisions, subdivisions, affiliates, etc.

As explained in the paragraph beginning at the paragraph bridging pages 4 and 5 of the instant specification, a software product is "typically composed of numerous executable modules that are installed in one or more libraries and, in some cases, certain modules may be shared among several products." Indeed there may be hundreds if not thousands of modules associated with a single software product. Therefore, the local data center where a software product is installed, is often unaware as to which modules are associated with each distinct "software product." Indeed, the lists of modules associated with various software products often constitutes the "trade secrets" of the software product licensors.

The prior art "license manager" provided to monitor the usage of software products does not reveal to the user the "module" constituents of specific "software products". License managers are programmed to detect usage of products through the invocation of certain modules. But that information is not dynamically available to the end user.

The prior art JACS systems do not necessarily have access to such company proprietary "product" based information. As further explained in the specification, known JACS systems use so-called SMF event data to gather information that allows them to evolve estimates of charge backs to individual departments, divisions or affiliates which utilize software products. But the event data necessarily is limited to detecting the calling or utilization of particular software "modules". The software usage is not correlated in the JACS systems to the utilization of "software products" as such. The allocation of costs is far cruder than if one were to have the ability to better understand when a software product was invoked and to allocate the costs to the various departments on the basis of product, not module, utilization.

Claim 1, as amended, clarifies that the one (known) component of the invention is the conventional license manager which monitors "software product" usage and handles requests for and grants rights to use licensed software products. Claim 1 makes it explicit that the license manager is the software constituent that gathers the data and develops information on the use of the software products which eventually results in the creating information that determines the amount of the "specified license fees" to be paid to the various vendors of the license software products.

Claim 1 also includes the otherwise conventional job accounting and chargeback subsystem that develops the chargeback data. However, in accordance with the invention of claim 1, a modified JACS subsystem has been created that correlates the software product use information made available by and extracted from the license manager with certain criteria that is incorporated in the job accounting software system, in a manner that provides charge back information that is based on the use of software products, not the invocation of modules, as carried out by conventional systems using SMF event data.

Respectfully, the cited prior art in no way relates to the system of claim 1. In Frison, a so-called PPU License System is disclosed which comprises a conventional License Management System (LMS) that measures software usage for vendors of the license software and further includes one or more licensee LMS systems. Each licensee LMS includes one or more components that operate

to grant pay-per-use licenses for software applications, including data collection on amount of usage licenses granted. That additional subsystem is also described as being able to monitor the granting of the licenses and periodically report the state and usage of licenses granted to a licensor LMS.

Indeed, the foregoing is clear from the summary of the invention of this reference, mainly from column 1, lines 46-50 thereof and from column 2 beginning at line 59. Claim 1 of the cited reference concludes with the recitation: "including periodic reporting of locally observed-gathered state and usage license granted data to a remote licensor pay-per use LMS". In other words, the system of the cited reference grants licenses for the use of software products and collects information on such use at the local level and reports that information to the License Management System, i.e., to the vendor-referenced license manager.

In contrast, in the invention of claim 1, the JACS does not grant any licenses. And the conventional operational mode of the license manager is not altered at the local level. Rather, the information from the license manager is simply communicated to the JACS which develops and utilizes the information of the license manager to create charge back information for local usage. Thus, the system of the present invention and that of the cited art are quite different and wholly distinguishable from one another.

All of the claims in the application which depend from claim 1 include its limitations and impose further limitations thereon which places them even further from the prior art. As such, the Applicant respectfully submits that all of the claims in the application are clearly patentable over the prior art.

Reconsideration of the application is respectfully requested and passage of the claims to issuance.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 30, 2004:

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Respectfully submitted,

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